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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1728 OF 2007

Kedia Agglomerated Marbles Ltd..
through Official Liquidator..Petitioners

Vs.

Union of India & Ors. Respondents

Mr. V.Sridharan with Mr. Jerry Lewis for the
Petitioners
Mrs. N.V. Masurkar with Mr. Kiran Kandpile for
respondents.

**CORAM: F.I. REBELLO &
J.P.DEVADHAR, JJ.
DATED: 23RD AUGUST, 2007**

P.C.:

. Rule. Heard forthwith.

2. The Appeal preferred by the petitioners herein was dismissed on the ground of delay of 57 days. It is this order, which is the subject matter of the present petition.

3. It is contended on behalf of the petitioners that they had shown sufficient cause for condonation of delay. It is further submitted that the very issue has been answered in their favour. We do not propose to go into that aspect at this stage.

4. The question is whether the impugned order

which refused to condone the delay and consequently dismissed the appeal ought to be set aside. The law on the subject as now declared by the Apex Court is as far as possible to give the party an opportunity of contesting the matter on merits, unless the conduct is such that the delay ought not to be condoned. In the instant case considering the facts and circumstances in our opinion the cause given would amount to sufficient cause. In the light of that the impugned order dated 7th March, 2006 is set aside. Application for condonation of condonation of delay is allowed. The Appeal be heard on merits. The petitioner to appear before the Appellate Tribunal on 10th September, 2007 at 11.00 a.m. Tribunal thereafter to give date according to his calender. Rule made absolute accordingly. No order as to costs. No order as to costs.

(J.P. DEVADHAR, J.)

(F.I.REBELLO, J.)